

That will not do it.

THE CHAIRMAN: Can you not accomplish it simply by adding the word "civil" before the word "cases" in line 10?

DELEGATE MOSER: Yes.

THE CHAIRMAN: Is there any objection to the modification by adding the word "civil" before the word "cases" in line 10?

DELEGATE JAMES: No objection.

THE CHAIRMAN: No objection. The amendment is so modified.

Delegate Moser.

DELEGATE MOSER: In brief explanation of it, I would say that the effect is to mandate that there be a right of removal. I think that will allay the fears of some members of the Convention and this is the purpose of it. It would require action by either the Court of Appeals or the General Assembly by law. It leaves it in the hands of either.

I am frank to say that I prefer matters as they are because I think that this is a question that should be handled by the Rules Committee.

However, I advocate this amendment to Delegates Kiefer and Willoner's amendment, and therefore I am submitting it so that it can be voted up or down.

THE CHAIRMAN: The Chair recognizes Delegate Willoner. You indicate whether you accept the substitute or desire to oppose it?

DELEGATE WILLONER: I am in the reverse position of Delegate Moser. This would be a second line position and this is my second line. The only problem is that he has a better shot at it than I do. It is very difficult to argue against it in the sense that at least we would have a provision in the Constitution requiring the General Assembly or the Court of Appeals to do something about this.

Again, I have a problem as a lawyer to say how they could do it. In many of the sections where we have said "shall" do something, it is pretty impossible to enforce without setting out any standards.

I would have to say I would have to vote against it because again the committee position is that this is a very important right that has been with us since 1805. We do not wish to change that right except to give the Court of Appeals reasonable regulation of it. That is all I can say about it and I would have to oppose it.

THE CHAIRMAN: Delegate James.

DELEGATE JAMES: What we are doing is we are really broadening the Willoner amendment. It seems to me this says shall provide for the right of removal. That means in all cases equity, condemnation, ejectment of land cases. I cannot really see any limitation.

The court, as I interpret this, is limited to procedural matters. There may be some flexibility, but it is much broader than the Willoner amendment.

THE CHAIRMAN: Delegate Moser.

DELEGATE MOSER: Simplicity is sometimes not always best. This is both simple and clear. It does not say all cases, it does not mean all cases. It simply says that there shall be provided some right of removal. It leaves and it intends to leave with the Rules Committee or the General Assembly, if the Rules Committee does not move, the absolute right to determine how this study be handled and that is the purpose of it.

THE CHAIRMAN: The Chair suggests to you that Delegate James is suggesting you change the word "shall" in line 9 to "may".

Would you consider the change?

DELEGATE MOSER: I could not accept the amendment at this point.

THE CHAIRMAN: Very well.

Does any delegate desire to speak in opposition to the amendment?

Delegate Schneider.

DELEGATE SCHNEIDER: I would like to ask Delegate Moser a question.

THE CHAIRMAN: Delegate Moser, do you yield to a question?

DELEGATE MOSER: Yes.

DELEGATE SCHNEIDER: I understand what you mean when the Court of Appeals or General Assembly "shall". But I do not know what it means when it says "may". You are saying either one or the other should do something. I am kind of at a loss to understand how we can tell them that they shall if we do not tell one or the other to do it.

DELEGATE MOSER: The constitutional mandate would be satisfied if either one does.

THE CHAIRMAN: Delegate Schneider.